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Date: November 14, 2003
Subject: 09/821,338 (F-315)
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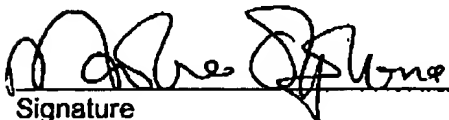
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1. Appeal Brief Transmittal Letter (2 pages)
2. Appellant's Brief for 09/821,338 (F-315) (11 pages)

on November 14, 2003
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Marlene Olphonice
Name


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November 14, 2003
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

) Date: November 14, 2003

Martin Sting, et al.

) Attorney Docket No.: F-315

Serial No.: 09/821,338

) Customer No.: 00919

Filed: March 29, 2001

) Group Art Unit: 3721

Confirmation No.: 5357

) Examiner: Sameh A. Tawfik

Title: ENVELOPE FILLING STATION

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OFFICIAL**APPELLANT'S BRIEF**Mail Stop Appeal Brief
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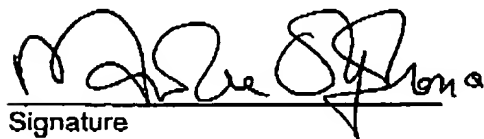
The appellants respectfully submit the following brief in the appeal of the subject application. The Notice of Appeal was filed on August 14, 2003, following a Final Office Action mailed May 14, 2003.

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01 FC:1251

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02 FC:1401

330.00 DA

I. Real Party In Interest:

Pitney Bowes Deutschland GmbH a German corporation having its principal place of business in Friedberg, Germany, is the real party in interest by way of assignment from the applicants.

II. Related Appeals And Interferences:

None

III. Status Of The Claims:

- (1) Claims 1-5 are the subject of this Appeal, and stand rejected.
- (2) Appellants hereby Appeal the rejection of Claims 1-5.

IV. Status Of The Amendments:

- (1) Claims 1-5 have not been amended.
- (2) **Appendix A**, attached hereto, contains current claims 1-5 on appeal.

V. Summary Of The Invention:

The present invention is an envelope-filling station having an envelope-filling bench. (Page 3, line 5-10). Sets of enclosures are conveyed into a push-in station by means of a conveyor and are pushed into envelopes by means of a push-in arrangement. (Page 2, line 27, to page 3, line 9). Envelopes are conveyed by means of a conveyor into a position opposite the push-in arrangement. (Page 5, lines 15-31). The envelopes are opened there and held ready for receiving the enclosures or sets of enclosures. (*Id.*) Once filled, the envelopes are conveyed away. (Page 8, line 10-13).

The conveying belt for transporting the envelopes is oriented transversely to the push-in direction. (Page 3, lines 28-30). A roller bar equipped with spring-mounted rollers

is lowered onto the top side of the top strand of the envelope-conveying belt, and raised from it, in a controlled manner to facilitate transport and filling operations. (Page 3, lines 33-39). When lowered, the roller bar supplies a normal force to assist in transport of the envelopes. (Page 7, lines 12-33). A stop means is activated such that envelopes are brought to a standstill in a position opposite the push-in arrangement with the stop means active and with the roller bar lowered. (*Id.*). The stopped envelope is filled with the roller bar raised. (Page 7, line 34, to page 8, line 9). The roller bar is raised in order that the transport normal force not interfere with the filling of envelopes. (*Id.*). The filled envelope is then conveyed away with the stop means inactive and the roller bar lowered again. (Page 10, line 12, to page 11, line 6).

This summary is not intended to supplant the description in the claims and the more detailed description in the specification.

VI. Issues:

The Rejections

Claims 1-5 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 5,388,388 to Belec ("Belec") in view of German Patent 2319866 to Becher ("Becher").

Issues for Appeal

(1) Do the asserted references satisfy the rule that each of the claimed elements be disclosed or suggested in the asserted reference in order to satisfy obviousness under 35 U.S.C. § 103? In particular, do the asserted references disclose the "transverse" orientation of components, or "roller bars" controlled to raise and lower as recited in independent claim 1?

VII. Grouping Of Claims:

All of the appeal d claims, 1-5, stand and fall together.

VIII. The Argument:

To establish a proper case of obviousness under § 103(a), the Examiner must make a *prima facie* showing that the prior art contains some teaching or suggestion of, or motivation for, all the elements of the claimed invention. Thus, it is well settled that the Examiner "bears the initial burden . . . of presenting a *prima facie* case of unpatentability." In re Plasecki, 223 USPQ 785, 788 (Fed. Cir. 1984); In re Oetiker, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

The rejected claims recite elements that are not taught or suggested by either of the asserted references. In particular neither Belec nor Becher describe "the envelope-conveying arrangement" as being "oriented transversely to the push-in direction." Also, the asserted references fail to disclose "roller bars" controlled to raise and lower as recited in independent claim 1.

"Oriented Transversely"

In the present invention, the envelope conveyor is oriented transversely to the push in direction. In contrast, as seen in Fig. 2 of Belec, envelopes 24 are supplied from below the deck in an orientation in-line and parallel with the push in direction. The arrangement in Belec, is also different in that stuffed envelopes are transported away along the same push-in direction, instead of transversely. Thus, the asserted references do not describe "the envelope-conveying arrangement" as being "oriented transversely to the push-in direction."

The Examiner has argued, however, that the use of the transverse orientation "involves only routine skill in the art," and that the test for obviousness is satisfied. This opinion of the Examiner is unsupported by any evidence, and is insufficient to withstand appeal. Appellants contend that the choice of orientation of the respective transports has a

dramatic effect on the whole apparatus. For example, use of the transverse arrangement makes use of the raised and lowered roller bar (10) relevant. Mere substitution of transverse for non-transverse arrangements would negate some of the utility of the claimed invention. As such, it was incumbent upon the Examiner to provide some evidence that the transverse arrangement is known in the art, rather than relying on unsupported opinion.

The Belec reference shows how the problem of matching the enclosures with an envelope can be solved by having the document and envelopes travel in parallel paths, one below the other. While this arrangement may simplify alignment of the documents with the envelopes, there may be a problem in gaining access the lower of the parallel paths. The transverse arrangement allows greater accessibility, but a different challenge is presented to ensure that envelopes stop at the right place, and that the envelope transporting mechanism does not interfere with the filling process.

The Examiner has alternatively argued that the Belec reference does disclose the element of "the envelope conveying arrangement . . . oriented transversely to the push in direction." This argument is in conflict with the ordinary meaning of the word "transverse" and the meaning of the word as used in the present application. The Examiner appears to be substituting the concept of "intersecting" for "transverse." In Belec, the envelope transport arises at an angle from below to intersect with the path of the documents to be inserted. However, this arrangement in Belec would not be considered "transverse" using the ordinary meaning.

As seen in the present application, the term transverse is used in its normal sense to describe "The envelope-conveying belt 6 runs transversely to the push-in direction of the push in station 2 and can be driven such that its top strand is moved from right to left in

relation to the illustration in Fig. 1." (See specification, page 3, lines 28-32). As seen in Fig. 1, the push-in direction and the envelope-conveying belt cross each other transversely to form a T. Nothing like this is depicted in Belec.

These missing claim elements relating to the transverse orientation are not cured in Becher. In Becher, there is not any "push-in" direction, because there is no stuffing of envelopes taught by this reference. Becher discloses a franking machine used to seal and place a franking mark on a pre-prepared mail piece. Thus, Becher does not include any disclosure about relative arrangements of envelopes and enclosures to be pushed into the envelopes.

Raised and Lowered Roller Bar

Another element missing from both Belec and Becher is that a "roller bar (10) equipped with spring mounted rollers (13) can be lowered onto the top side of the top strand of the envelope-conveying belt (6), and raised from it in a controlled manner." The complete recitation of the controlled raising and lowering action is as follows:

a roller bar (10) equipped with spring-mounted rollers (13) can be lowered onto the top side of the top strand of the envelope-conveying belt (6), and raised from it, in a controlled manner, in that stop means (24) are arranged along the top strand of the envelope-conveying belt and can be brought into an active position directly above the level of the envelope-filling bench, and removed therefrom into an inactive Position, in a controlled manner, such that envelopes (30) which have been conveyed up are brought to a standstill in a position opposite the push-in arrangement (3) with the stop means (24) active and with the roller bar (10) lowered, are filled with the roller bar (10) raised and are conveyed further with the stop means (24) inactive and the roller bar (10) lowered again

Claim 1.

As can be seen from claim 1, and the corresponding disclosure in the figures and specification, the spring mounted rollers are automatically lowered during the automated stuffing process to convey empty envelopes to the push-in station and to remove filled envelopes from the push-in station. During the push-in process, the rollers are automatically raised so as not to hinder pushing the documents into the envelopes.

As noted by the Examiner, Belec does not include a roller bar, and instead Becher is relied upon. While Fig. 2 of Becher does show a movable upper set of rollers, such rollers are not raised and lowered during any part of normal machine operation. From Fig. 2, it appears that the set of upper mounted rollers are merely hinged so that they can be swung out of the way in order to clear away a jammed mail piece, or for clearer access to other parts of the machine. There is certainly no description or suggestion of raising and lowering the rollers in Becher to facilitate envelope filling, because envelope filling is not part of the Becher franking machine. Becher does not describe any sequence of raising and lowering of a roller bar during an envelope filling operation. During normal operation of the Becher device, the upper rollers remain in place as envelopes are transported through the franking machine.

The Examiner has asserted that a raising and lowering feature for the roller bars in Becher is necessarily automated in order to pivot the bar as seen in the differences of the bar locations in Figs. 1 and 2. To the contrary, in Becher the raising and lowering is accomplished manually in order to gain access to the transport deck below.


The Examiner has suggested an alternative argument whereby manual raising and lowering of the bar in Becher satisfies the missing claim elements. The Examiner reasons that making a manual process automated is obvious. The problem with this argument,

however, is that Becher fails to disclose an automated or manual sequence for raising and lowering a roller bar to facilitate in transport and filling of envelopes. As discussed above, the hinged nature of the rollers in Becher is merely for occasional manual access to the transport deck to clear jams, or the like. In this case, the Examiner's argument about automating a manual process is unpersuasive because the asserted manual process is completely different than the recited operation in the rejected claims, regardless of whether it is automated or manual.

IX. Conclusion:

For the reasons advanced above, the Appellant respectfully submits that claims 1 and its dependent claims 2-5, are patentable. Reversals of the rejections by the Examiner are respectfully solicited.

Respectfully submitted,


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Application Serial Code No.: 09/821,338

ENVELOPE FILLING STATION

APPENDIX A TO APPELLANTS' APPEAL BRIEF

Current Copy of the Claims

1. Envelope-filling station having an envelope-filling bench (5) which is added onto a push-in station (2) of a mail-processing machine, in which enclosures or sets of enclosures are conveyed into the push-in station (2) by means of a conveyor (1) and are pushed into envelopes (30) by means of a push-in arrangement (3), said envelopes being conveyed by means of an envelope-conveying arrangement (4), on the envelope-filling bench (5) into a position opposite the push-in arrangement (3) and being opened there and held ready for receiving the enclosures or sets of enclosures and, once filled, being conveyed further, characterized in that the envelope-conveying arrangement (4) contains a circulating envelope-conveying belt (6), of which the top strand is guided over the envelope-filling bench (5) and is oriented transversely to the push-in direction, in that a roller bar (10) equipped with spring-mounted rollers (13) can be lowered onto the top side of the top strand of the envelope-conveying belt (6), and raised from it, in a controlled manner, in that stop means (24) are arranged along the top strand of the envelope-conveying belt and can be brought into an active position directly above the level of the envelope-filling bench, and removed therefrom into an inactive Position, in a controlled manner, such that envelopes (30) which have been conveyed up are brought to a standstill in a position opposite the push-in arrangement (3) with the stop means (24) active and with the roller bar (10) lowered, are filled with the roller bar (10) raised and are conveyed further with the stop means (24) inactive and the roller bar (10) lowered again, and in that at the beginning of the top strand of the envelope-conveying belt (6), by means of an auxiliary conveying arrangement (14), envelopes can be conveyed up separately against in particular adjustable stops (23) from a horizontal direction perpendicular to the running direction of the top strand

of the envelope-conveying belt (6) , such that subregions of the respective envelope which has run up against the further stops (23) extend into the gap between the raised roller bar (10) and the beginning of the top strand of the envelope-conveying belt (6) such that, when the roller bar (10) is lowered against the top strand of the circulating envelope-conveying belt (6) , the relevant envelope is drawn in front of the push-in arrangement (3) in the conveying direction of said envelope-conveying belt.

2. Envelope-filling station according to Claim 1, characterized in that the operation of feeding the separated envelopes (30) out of an envelope-separating station from a horizontal direction perpendicular to the running direction of the top strand of the envelope-conveying belt (6) takes place by means of an auxiliary conveying belt (17) and abutment rollers or abutment belts interacting therewith.
3. Envelope-filling station according to Claim 1 or 2, characterized in that the roller bar (10) has a beam-like carrier housing which is coupled to drive means (11) for raising and lowering it and on which spring tongues (32) or pairs of leaf-spring elements are anchored (33) , these retaining bearings (34) for supporting on both sides the journals of disc-like, comparatively large-diameter rollers (13)
4. Envelope-filling station according to Claim 3, characterized in that at least one of the spring tongues or leaf-spring pairs bears, on spring sections (35) extending from the anchoring locations (33) starting from the bearings (34), suction-cup arrangements (36, 37) which are connected to a vacuum source via flexible vacuum lines and controllable valves and of which the suction-cup openings, with the roller bar (10) raised off from the top strand of the envelope-conveying belt (6) , extend down at least to the level of the lowermost circumferential regions of the rollers (13), and with the roller bar (10) lowered onto the top strand of the envelope-conveying belt (6) and the rollers (13) loaded, with spring-tongue deformation or leaf-spring deformation taking place in the process, are raised by way of the spring sections (35) , above the level of the lowermost circumferential regions of the rollers (13) , the

suction- cup arrangement (36, 37) serving for opening and keeping open the envelopes during the actuation of the push-in arrangement (3)

5. Envelope-filling station according to Claim 3 or 4, characterized in that the carrier housing of the roller bar (10) and the spring tongues or leaf-spring pairs are designed in one piece, in particular as a plastic injection moulding.